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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,635	01/27/2004	Steven E. Morton	ECSIX 104 DIV 2	2257

2555 7590 06/22/2005

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EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,635

Applicant(s)

MORTON, STEVEN E.

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 39 and 40 are pending in the application, claims 1-38, 41 and 42 have been cancelled.
2. Amendments to claims, filed on April 28, 2005, have been entered in the above-identified application.

Election/Restrictions

3. Applicant's election without traverse of Group VI, claims 39 and 40, in the reply filed on April 28, 2005 is acknowledged.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (U.S. Patent No. 4,555,292).

Regarding Applicant's claim 39, Thompson discloses a modular flooring unit (*wood panel, title*), which is deemed to be of a discrete size and weight that can be lifted by a human, since it is a panel/plank in marine decking (*col. 1, lines 12-13*). The flooring unit comprising a planar matrix (*cement, col. 4, line 24 and figure 5*), reinforcing fibers embedded in the matrix

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(*fiber, col. 4, line 24*) for reinforcing the matrix and particulate mounted to a major surface of the matrix (*grit material, col. 4, line 40 and figure 5*).

Regarding Applicant's claim 40, the particulate mounted to the matrix is deemed to form a traffic-bearing surface of the flooring unit, since Thompson discloses that the panels are subjected to heavy foot traffic (*col. 1, lines 12-13*).

6. Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Thompson (U.S. Patent No. 4,622,257).

Regarding Applicant's claim 39, Thompson discloses a modular flooring unit (*tile, title*), which is deemed to be of a discrete size and weight that can be lifted by a human, since it is a floor tile (*col. 1, line 6*). The flooring unit comprising a planar matrix (*cement, col. 1, line 39 and figure 3*), reinforcing fibers embedded in the matrix (*fiber, col. 1, line 39*) for reinforcing the matrix and particulate mounted to a major surface of the matrix (*grit material, col. 3, line 45 and figure 3*).

Regarding Applicant's claim 40, the particulate mounted to the matrix is deemed to form a traffic-bearing surface of the flooring unit, since Thompson discloses that the tiles are subjected to heavy foot traffic (*col. 1, lines 12-13*).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Alicia Chevalier', written in a cursive style.

Alicia Chevalier

6/18/05